

September 19, 2014

Mr. Devin Leary  
Human & Rohde Inc,  
512 Virginia Ave.  
Towson MD 21286

Re: CBS Radio WLIF Inc.  
1301 Hart Rd., 21286  
Forest Conservation Variance  
Tracking No. 03-14-1863

Dear Mr. Leary:

A request for a variance from Baltimore County's Forest Conservation Law was received by the Department of Environmental Protection and Sustainability (EPS) on August 25, 2014. The request proposes to remove six specimen trees for the purpose of replacing an anchor and associated guy wire that are part of the replacement of an over 40-year-old radio tower. All six trees are within the existing forest with two of the trees located within the required forest buffer area. Three of the trees are Liriodendron tulipifera in good condition with diameters at breast height (DBH) of 30.5 (in buffer), 30.5 & 31-inches. Two trees are Quercus rubra with DBH's of 32 and 38.5 (in buffer) inches with the larger one in fair condition. One tree is a Fagus grandifolia in good condition with a 31-inch DBH. An additional 27 trees with a greater than 30-inch DBH exist on-site and will not be impacted.

The Director of EPS may grant a special variance to the Forest Conservation Law in accordance with criteria outlined in Section 33-6-116 of the Baltimore County Code. There are six (6) criteria listed in Subsection 33-6-116(d) and (e) that shall be used to evaluate the variance request. One of the three criteria under Subsection 33-6-116 (d) must be met, and all three of the criteria under Subsection 33-6-116 (e) must be met, in order to approve the variance.

The first criterion (Subsection 33-6-116 (d)(1) of the Code) requires that the petitioner show that the land in question cannot yield a reasonable return if the requirement from which the special variance is requested is imposed and will deprive the petitioner of all beneficial use of his property. The applicant proposes to remove six specimen trees on the 10.1-acre site. The six trees are located within forest to be cleared for installation of a guy-wire and anchor system for the replacement of a radio tower. These trees cannot be retained without severely impacting the feasibility of the project. Without impacts to these trees, the replacement tower and associated anchor system would require more extensive impacts to forest on and off the property including greater impacts to the forest buffer required to protect the streams and wetlands. This property has been the site of a radio tower for over 40 years, and not allowing the proposed replacement

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would deprive the petitioner of all beneficial use of the property. Therefore, denying this variance request would deprive the applicant of a reasonable use of the property, and this criterion is met.

The second criterion (Subsection 33-6-116 (d)(2) of the Code) requires that the petitioner show that his/her plight is due to unique circumstances and not the general conditions in the neighborhood. The variance request arises from a unique situation concerning the location of six specimen trees on the property in relation to the anchoring requirements for the tower, and the minimization of impacts to the forest buffer and the contiguous forest. The tower and anchoring locations have been located to allow for retention of the majority of forest on the site including twenty-seven other trees with a DBH greater than or equal to 30-inches. The development proposal is based on these unique conditions, and not from general conditions of the neighborhood. Therefore, this criterion is met.

The third criterion (Subsection 33-6-116 (d)(3) of the Code) requires that the petitioner show that the special variance requested will not alter the essential character of the neighborhood. This property is located at the dead end of Hart Road with forest to the north, east and south, single family dwellings to the northwest, and a radio station property to the southwest. The use of this property remains the same. Therefore, the proposed development of the site would be compatible with the neighborhood, and this criterion is met.

The fourth criterion (Subsection 33-6-116 (e)(1) of the Code) requires that the granting of the special variance will not adversely affect water quality. An adequate forest buffer has been proposed to provide water quality management for the stream located north and east of the property. In addition, 70% of existing forest on-site will be retained with no requirement for reforestation or afforestation. The forest retention area results in a greater than 100-acre contiguous forest area when considering off-site forest. Based on this, this criterion is met.

The fifth criterion (Subsection 33-6-116 (e)(2) of the Code) requires that the special variance request does not arise from a condition or circumstance, which is the result of actions taken by the petitioner. No action has been taken on-site by the petitioner that would necessitate this variance request. Therefore, this criterion is met.

The sixth criterion (Subsection 33-6-116 (e)(3) of the Code) requires that the Director of EPS find that the special variance, as granted, would be consistent with the spirit and intent of Article 33 of the Baltimore County Code. The majority of forest on-site is being retained and this includes an twenty-seven specimen trees. The six specimen trees to be impacted are located within existing forest, and the applicant is required by the law to mitigate forest impacts by meeting all forest conservation requirements. In this case, all requirements are being met with forest retention on the property. Therefore, this criterion is met.

Based upon our review, this Department finds that the required variance criteria have been met. Therefore, the requested variance is hereby approved, in accordance with Section 33-6-116 of the Baltimore County Code, with the following conditions:

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1. Meeting forest conservation requirements for the area of forest cleared will provide any necessary mitigation for the impact to these six specimen trees as these trees exist within the forest. A Forest Conservation Plan for this project must be approved prior to any permit approvals.
2. A note must be added to all plans stating that a variance was granted by Baltimore County EPS to allow for impacts to six specimen trees on this project site, and that mitigation was provided by meeting all forest conservation requirements with forest retention on-site.

It is the intent of this Department to approve this variance subject to the above conditions. Any changes to site layout may require submittal of revised plans and an amended variance request.

Please have the property owner sign the statement at the end of this letter and return a signed copy of this letter to this Department within 21 calendar days. Failure to return a signed copy may render this approval null and void, or may result in delays in the processing of plans for this project.

If you have any questions regarding this correspondence, please contact Paul Dennis at (410) 887-3980.

Sincerely yours,

Vincent J. Gardina  
Director

VJG/pad

c: Marian Honecny MDDNR

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I/we agree to the above conditions to bring my/our property into compliance with Baltimore County Forest Conservation Law.

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Property Owner(s)

Date

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Printed Name(s)

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